

Decision: 2012 ME 66

Docket: Cum-12-230

Considered

On Briefs: May 16, 2012

Decided: May 16, 2012

Panel: SAUFLEY, C.J., and SILVER, JABAR, and CLIFFORD, JJ.

IN RE MOTION FOR PROTECTION
OF MERCY HOSPITAL EVIDENCE

SAUFLEY, C.J.

[¶1] Mercy Hospital has filed an appeal from an order entered in the Unified Criminal Docket (Cumberland County, *Wheeler, J.*), in the matter of the State of Maine v. Ernest Weidul, CR-10-3000, denying Mercy's motion for a protective order related to several Mercy witnesses. In support of its motion, Mercy asserted two statutory privileges: 22 M.R.S. § 8754(3) (2011) (sentinel event notifications and reports) and 24 M.R.S. § 2510-A (2011) (professional competence review records).

[¶2] Because the appeal was brought from an interlocutory order of the trial court, we would ordinarily dismiss the appeal sua sponte. To allow Mercy to be heard, however, we entered an order directing Mercy to show cause why its appeal should not be dismissed. Both Mercy and Weidul filed written arguments for our consideration. The State reports that it takes no position.

[¶3] Having thoroughly considered the parties' arguments, the relevant legal precedent, and policy considerations regarding legal process in Maine courts, we conclude that Mercy's appeal must be dismissed as an interlocutory appeal to which no exception to the final judgment rule applies. *See In re Willoughby*, 487 A.2d 636, 638 (Me. 1985); *see, e.g., Mohawk Indus., Inc. v. Carpenter*, 558 U.S. ---, 175 L. Ed. 2d 458 (2009); *United States v. Ryan*, 402 U.S. 530 (1971); *Kansas Med. Mut. Ins. Co. v. Svaty*, 244 P.3d 642, 653-56 (Kan. 2010).

The entry is:

Appeal dismissed.

On the briefs:

Steven L. Johnson, Esq., Kozak & Gayer, P.A., Augusta, for appellant
Mercy Hospital

Thomas J. Connolly, Esq., Portland, for appellee Ernest Weidul

The State of Maine did not file a brief